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International Court of Justice

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OFFICIAL TRANSCRIPT OF TESTIMONY ON DEFENSE ORGANIZATIONS TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL, MONDAY, ~~20~~ 20 MAY, 1946, ~~1000-1300~~. 1000—1200,

COMMISSIONERS:

Colonel A. M. S. Neave
Captain Joseph Tubridy

SS

DR. KURT BADER, a witness, took the stand and testified as follows:

BY COLONEL NEAVE:

Q Witness, what is your full name?

A Kurt Bader.

Q Will you raise your right hand and repeat these words after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

COLONEL NEAVE: You may sit down.

DR. JOSEF KOESSL: This witness is supposed to prove that the charge made by the prosecution in the meeting of the 19th of December, 1945, as written down on page 1624 of the minutes of that meeting, is not true. The sentence reads that the Court would have to know, in considering the ~~capacity~~ capacity in which the police was doing anything, whether it was really the SS which was acting.

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COLONEL NEAVE: Interpreter, please ask Dr. Koessl to pause regularly after every sentence.

INTERPRETER: Yes, sir.

DR. KOESSL: Counsel would like to question the witness.

COLONEL NEAVE: Yes.

DIRECT EXAMINATION

BY DR. KOESSL:

Q The witness is supposed to give evidence particularly as to the activities of the police, the being of the police, with particular regard to the Ordnungspolizei, the Order Police.

What positions did you hold within the police before and after 1933 that gave you an opportunity to get particular knowledge or insight of the Order Police?

A I am a highschool graduate. From 1915 to 1920 I was an active lieutenant--first lieutenant--in the Army. From 1920 to 1922 I was first lieutenant of police. Because of illness, I retired. From 1922 until 1925 I studied law.

COLONEL NEAVE: I think we can go straight on through these personal details to the position that he held in the Ordnungspolizei.

DR. KOESSL: They will follow immediately.

BY DR. KOESSL:

Q Yes?

A After I had taken my doctor's examination, I was employed by the ~~xxxxx~~ police at Mautheim.

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In 1929 I entered the Ministry of the Interior at Baden as a legal advisor.

From March of 1933 until July of 1937 I was the head of the Police Department of the Ministry of the Interior of Baden.

From 1937 until 1943 I was Amtsgruppenleiter of the Reich Ministry of the Interior, the Ordnungspolizei. My special field was police law of the Order Police, and the organization of the Order Police.

From 1943 until the armistice I was inspector of the Order Police for the Gaus Wien, Lower Danube and Upper Danube.

Q The first question is, do you consider the drawing, which was submitted by the prosecution, of the plan of the organizations that were subordinate to the Reichsfuehrer of the SS correct?

A No.

Q I should like to point out that the prosecution submitted a drawing to the Court. This outline includes the main offices of the SS, and it also includes sub-departments. This draft has been made by a man called Berger, former Obergruppenfuehrer of the SS.

COLONEL GRIFFITH JONES: I don't wish to interrupt you, but if these proceedings are to be kept within any kind

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of reasonable time whatsoever, I do respectfully ask that the defense counsel and the witnesses be kept to something which is relevant.

So far we have been here for about a half hour, and the witness has been asked three questions. The remainder of that time we have been occupied by defense counsel in making speeches.

I do, with great respect, submit that it is perfectly simple to ask questions and let the witness answer, and leave explanations until either the Commissioner or counsel for the prosecution ask for some explanation.

COLONEL NEAVE: Dr. Koessl, would you keep your questions very much shorter, pause for the interpreter after every sentence, and ask the witness questions that he can answer without giving a long explanation.

I was not going to draw attention to this unless I had to, but I have already pointed out to defense counsel, before this session, that both the questions and answers should be kept as short and to the point as possible.

Will you go on?

DR. KOESSL: Yes.

BY DR. KOESSL:

Q Do you consider the drawing, or the outline, that has been submitted to you of the offices subordinate to the Reichsfuehrer SS as correct?

A No, it is not correct.

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Q Why is it not correct?

A The Main Security Office and the Order Police Office were subordinate to the head of the German Police. They were pure state organizations. This sketch has, for its heading, "Reichsfuehrer SS". He was not head of the German Police. The Party and the State Offices of Himmler were separate. There was only a personnel union.

COLONEL NEAVE: What was that word? What sort of a union?

DR. KOESSL: Personnel Union. That means that one man holds two different offices at the same time.

COLONEL NEAVE: What is the relevance of all this, Dr. Koessl? What are you trying to prove by it?

DR. KOESSL: I want to prove that the Order Police was not a part of the SS.

COLONEL GRIFFITH JONES: The Order Police are not included in the Indictment. Anything which refers to them is wholly irrelevant for the purpose of this investigation.

COLONEL NEAVE: Are they not included in the Indictment as an organization integrated in or adhering to the SS?

COLONEL GRIFFITH JONES: In so far as members of the Ordnungspolizei happen to have been members of the SS, then, of course, they are included in the organization of the SS. The Ordnungspolizei, as such, as an organization, is not included.

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DR. KOESSL: Defense counsel Babel has repeatedly asked that the prosecution make a statement or say definitely whether the Ordnungspolizei as such has also been indicted.

COLONEL NEAVE: Well, they have made one and you have heard the answer now.

If I understood Colonel Griffith Jones correctly, he said in so far as they were members of the SS.

COLONEL GRIFFITH JONES: Yes.

COLONEL NEAVE: So that if this witness is going to prove anything regarding the membership of the Ordnungspolizei within the SS, then we would be glad to continue to hear him, but not ~~insofar~~ in so far as the Ordnungspolizei as a whole is concerned, in that it is not, apparently, indicted.

Therefore, will you confine your witness, if you can, if he has got any material, to the Ordnungspolizei in so far as its members were members of the SS.

DR. KOESSL: I would like to point out a sentence on page 15 of the Indictment against the SS. This sentence reads: "The office of the Order Police in the Reich Ministry of the Interior was a similar one."

COLONEL NEAVE: Where is this, Dr. Koessl?

DR. KOESSL: At the bottom of page 15 of the German version of the Indictment.

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COLONEL NEAVE: Can you say which the English version page would be?

DR. KOESSL: No, I can't, I am sorry to say.

COLONEL NEAVE: Dr. Kempner, perhaps you can let us know.

DR. KEMPNER: It is on page 12.

COLONEL GRIFFITH JONES: It has repeatedly been made clear, or it has been attempted to be made clear, that this is from the trial brief. The trialbrief is not the case against the defendants. The case against the defendants is contained in that evidence which has been put before the Tribunal, and is included in the record.

DR. KOESSL: In supplement B of the Indictment, the following sentence is contained.

COLONEL NEAVE: I believe you are talking about Appendix B of the Indictment now?

DR. KOESSL: Appendix B of the Indictment, page 3 of the German version.

COLONEL NEAVE: Well, that is presumably page 36 of the Indictment.

I don't believe you need read all this, Dr. Koessl, we can read it in our English version. Just say what you have to say about this particular paragraph.

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DR. KOESSL: This sentence states that the protecting staff of the German Party, generally known as the SS, including the Security Police, is not confined to the SS Regimental Police, or the SS Polizei Regiments.

COLONEL GRIFFITH JONES: The SS and the Polizei Regiments, as I understand it, are not the Order Police at all; they are special regiments of SS Police who were sent out on special tasks. That is as I understand the position. However, they do not refer to the Order Police as such.

COLONEL NEAVE: Well, the prosecution adhere to what was originally said, that the Ordnungspolizei is not indicted except in so far--am I right in saying this--as some of its individual members may have been members of the SS?

DR. KEMPNER: That is right.

COLONEL NEAVE: Now, Dr. Koessl, the prosecution have now made that statement with respect to the Indictment, and I must, therefore, ask you to confine your questions to that point, with reference to those members of the Ordnungspolizei who were also members of the SS.

Now, unless this witness--which he doesn't appear to be able to do at the moment--can give evidence with respect to those people that I have referred to, the Ordnungspolizei members who were also members of the SS, then I don't think that we need hear him further.

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DR. KOESSL: I would like to ask the witness whether the SS regiments were regiments of the Police or of the SS.

COLONEL NEAVE: But we are talking about the Ordnungspolizei, and we understand from the prosecution that they are not indicting the Ordnungspolizei in respect of the SS Police Regiments. Therefore, we are not really interested in that point.

COLONEL GRIFFITH JONES: To make ourselves quite clear, the SS Polizei Regiments are part of the SS.

COLONEL NEAVE: I understand the SS Police Regiments are actually part of the SS.

DR. KOESSL: No; no. The witness is supposed to prove that.

COLONEL NEAVE: You may ask the witness to explain briefly.

BY DR. KOESSL:

Q Witness, do you know for sure whether the SS Police Regiments were regiments of the Ordnungspolizei or of the Police?

A I cannot say for sure.

COLONEL NEAVE: Well, if he can't say for sure we are not really interested in hearing him, because we want a definite answer to this question. The prosecution

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have made a statement with respect to the position of the SS Police Regiments and the Ordnungspolizei, and I can't see the point of hearing a witness who ~~xxyxx~~ can't say for sure.

M. HENRI MONNERAY: May I just make it quite clear? Is it possible to ask whether the regiments of the Ordnungspolizei are not, at the same time, regiments of the SS?

COLONEL NEAVE: I understand Colonel Griffith Jones has stated that. Do you want us to ask the witness that question?

M. MONNERAY: It is necessary to know, and the witness can probably answer the question as to whether the name Ordnungspolizei Regiments doesn't cover, at the same time, the SS Polizei Regiments.

DR. KOESSL: I understand that the prosecution should ask these questions on cross examination.

COLONEL NEAVE: It is a perfectly straightforward question on the examination of the witness, because we want to know whether the witness is being asked anything relevant. Surely this is a matter of fact, and if this witness does not know the answer precisely, well then I don't think there is any point in hearing him at all. He ought to be in a position to know. You called him as a person who was experienced.

DR. KOESSL: The witness is supposed to give an answer if he can give definite information concerning this question.

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THE WITNESS: I cannot give a binding answer. Up until 1943 I was solely employed by the Administration Department, and the regiments were subordinate to the commander. I do not want to give any indefinite information.

DR.KOESSL: The Court and the prosecution probably want to know what Kommandoamt means.

COLONEL NEAVE: I don't think so; I think they know that. I don't think the prosecution or ourselves wish to know what Kommandoamt means. All we want to know is, what can this witness say with respect to the Ordnungspolizei that relates to the SS? And I must ask you to ask him questions on that subject, and that subject alone. He doesn't seem to be able to answer very much about the police regiments, so let him say what he knows about the Ordnungspolizei, and that is all.

DR. KOESSL: I have been charged to ask the witness questions concerning the relationship of the Ordnungspolizei to the interior administration division.

COLONEL NEAVE: No. You mean the interior administration of what?

DR. KOESSL: The inner State Administrative Division, or Administration. That is, the Reich Interior Administration.

I can only ask the question if the prosecution state clearly whether the Ordnungspolizei is indicted or not.

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COLONEL NEAVE: They have answered it. I think I must have repeated their answer three times already. They state that it is only indicted in respect of its members who were members of the SS, and what the interior administration has to do with this, I don't follow at all.

Can this witness give us any information at all regarding members of the Ordnungzpolizei who were members of the SS? If he can't do so, he must go.

DR. KOESSL: The prosecution has maintained that when the police has done anything, has taken any action, then it was really the SS acting.

COLONEL NEAVE: Dr. Koessl, will you ask him the question I asked you to ask him with respect to the Ordnungspolizei and the SS? Will you ask him that question?

DR. KOESSL: Counsel can only do without asking the witness questions if the prosecution state firmly and clearly that the Ordnungspolizei is excepted from the Indictment.

COLONEL NEAVE: But they don't say anything of the sort. I really can't repeat what they have already said myself, but, for the fifth time, they have made their position perfectly clear. They did not say it was excepted. They referred to the membership of that organization who were also members of the SS. Now, if any members of

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the Ordnungspolizei were members of the SS, can't you ask this witness about that? If not, he is not required.

DR. KOESSL: Counsel says that the prosecution has made claims or assertions that when the prosecution indicted the SS, it also indicted parts of or even the entire Ordnungspolizei.

COLONEL NEAVE: Have you any comments to make on that? Do you have anything to add to what you have originally said?

COLONEL GRIFFITH JONES: I have nothing to add to what I have already said. And if the defense counsel can show me, either in the Indictment or in the evidence that has been put before the Tribunal, where we have alleged that the Ordnungspolizei as such, as a unit, is a criminal organization, why then I will be pleased to reconsider what I said.

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DR. KOESSL: On Page 1592 of the Minutes of the meeting on December 19, 1945, the main security office -- the main office of the Ordnungspolizei has been signified as the SS main office.

COLONEL NEAVE: I don't think I quite understood that.

DR. KOESSL: In the German version of the Minutes of the meeting on December 19, 1945, Page 1592, the main office of the Ordnungspolizei has been identified with the SS main office. In the minutes of the SGT, on Page 1619, the SS and the Ordnungspolizei were under one unified leadership.

I should now like to turn my attention to the development which made the SS and the police one unit. This is quoting from the Minutes, Page 1623 --

COLONEL NEAVE: I thought you were trying to prove that the Ordnungspolizei was not part of the SS. What are you trying to produce this evidence for? Honestly, Dr. Koessl, I don't think we need to continue this discussion at all. The prosecution has made themselves perfectly clear in respect to the indictment of the SS and I am going to ask this witness to go unless you are prepared to ask him a relevant question with respect to the SS membership of the Ordnungspolizei. You see, you don't need to continue this discussion at all.

DR. KOESSL: I have another witness concerning membership of the SS and the Ordnungspolizei.

COLONEL NEAVE: All right, let's hear him. But I don't think that Dr.Kurt Bader has anything to say on this subject. I don't want to have to ask the prosecution to repeat

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what they have said. They say that it is not rellevant and I don't think I can hear this witness any further. If you have a witness on the subject of the SS membership of the Ordnungspolizei you can call him rightaway, but we don't want Dr. Bader any further because I don't think he has any --

DR. KOESSL: The indictment of the Ordnungspolizei is in question and I would like permission to recall the witness at a later date.

COLONEL NEAVE: The question of the indictment of the Ordnungspolizei has been settled by the statement of the prosecution representatives here this morning and therefore we will not grant permission to recall the witness.

DR. KOESSL: If the Court considers the declaration of the prosecution as binding, I need ask the witness no further questions.

COLONEL NEAVE: Well, the Commission will naturally accept the statement of the prosecution. They are indicting the organization.# Counsel, we are going to withdraw this witness now because we don't think that he can prove anything in connection with what the Ordnungspolizei appears to be indicted for. You have nothing to add to your statement?

COLONEL GRIFFITH JONES: No, sir.

COLONEL NEAVE: Since Defense Counsel asked whether we considered that statement as binding and we have stated we do, the witness can now withdraw.

DR. KOESSL: I can ask the witness some other questions not in the question group that has been discussed this morning.

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COLONEL NEAVE: Well, is it anything relevant? Is it anything to do with the SS?

DR. KOESSL: Yes, it treats the questions of the documents that the prosecution has submitted.

COLONEL NEAVE: Well, in what respect?

DR. KOESSL: The first question is, is the treatise that Dr. Werner Best has written concerning the German police an official statement or official explanation?

COLONEL NEAVE: Excuse me, Dr. Koessl. Is this a document introduced by the prosecution?

DR. KOESSL: It is the chief document of the prosecution so far as the police sector is concerned.

COLONEL NEAVE: But does it relate to the Ordnungspolizei?

DR. KOESSL: It relates to the SS and to the Ordnungspolizei.

COLONEL NEAVE: All right, go ahead.

BY DR. KOESSL:

Q Is this treatise that Dr. Werner Best has written concerning the German police official? Does it give an official view?

A No; the contrary.

Q The prosecution says that Dr. Werner Best was a Ministerialdirektor in the Reich Ministry of the Interior, so that this treatise has an official character --

M. MONNERAY: I think we do not worry about the official character of this book. If Defense Counsel has any objection

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to make as to some specific point I think he could ask the witness.

COLONEL NEAVE: I think so, too. I don't think there is much point in asking questions relating to this book unless you are going to prove something concerning the relation of the SS and the Ordnungspolizei that arises out of this book.

DR. KOESSL: The prosecution wants to shed light on the activities of the SS as a police organization. If the prosecution withdraws the claims or of the claims concerning the Ordnungspolizei are not used, then the book is still important so far as light is to be shed on the activities of the SS.

COLONEL NEAVE: All right, go on.

Q Did the SS have any police functions at all?

A No.

Q Can the SS be considered a police organization as claimed by the prosecution?

A No.

Q Did the security of the public order of the Reich relate to the activities of the SS?

A In principle, no. In times of public emergencies and when there were very large mass meetings the SS could be called upon to form cordons and so forth.

M. MONNERAY: May I have that question and answer read back?

COLONEL NEAVE: Read back the question and answer.

(Reporter read the last question and answer.)

Q On Page 13 of the Minutes of the meeting of December

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19, 1945, the prosecution says the following: "The task of the SS were increased insofar as to secure or make safe the order of the Reich", and so forth. I should like to ask the witness if this task was a State task of the SS as a formation.

COLONEL NEAVE: Would you repeat the question?

Q Was the securing of public safety a task of the SS as a State task or a task of the SS as an organization of the National Socialist Party?

A The securing of public safety in the Reich itself is specifically a task of the police or of the Order Police.

Q Was this scope of activity transferred to the SS or was it extended to the SS?

A I never heard that this activity was transferred to the SS, but during my imprisonment I was acquainted with the so-called Fuehrer decree, the Freibrief charter, to the SS, but this decree speaks only of future tasks of the SS.

Q Then you mean to say that the activity had not been transferred as yet to the SS?

A I know nothing of it.

Q The prosecution has repeatedly referred to speeches and writings by Himmler. What can you say concerning Himmler's speeches or what he has written concerning police activity and SS activity?

A Many things have not yet settled concerning police and SS. In speeches and publications many things were treated which were future plans or which were dreams or remained dreams. In

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my opinion, you can only go by what was actually made law by decree or by what was the existing condition.

COLONEL NEAVE: Dr. Koessl, what I understood you were going to ask this witness was some information concerning the police activities of the SS as a whole. Now he does not appear to know very much about this and I would suggest that if you have a better witness on this subject, which I understand you have, we withdraw this one. You remember that we have very little time and we have not got any precise information from this man.

DR. KOESSL: This witness has shown that the police activity was and remained a State activity and did not become an SS activity.

COLONEL NEAVE: What else can you prove with regard to the SS? You have proved that point now; he has told us about that, not in very great detail, but he has told us that. Is there anything else he can say with regard to SS police?

Q What does the decree making the SS Fuehrer Chief of the German Police mean?

A In 1936 Himmler became Chief of the German Police in the Reich's Ministry of the Interior. As Chief of the German Police he was the constant deputy of the Reich's Minister of the Interior. The supplement within the Reich's Ministry of the Interior proves that both his offices remained and were offices within the Ministry of the Interior; that is of the main security office and the main order police office, the Reich's main order police office and Reich's main security office.

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Q In the introduction of the Trial Brief, at the top of Page 8, the prosecution says: "The SS controlled and supervised the police power." Is that correct? With special consideration to the fact that the Reichsfuehrer SS also was Chief of the German Police?

A The SS did not control the police but the police Chief was in personal union with the SS Reichsfuehrer.

Q Did the organization of the SS have any control over the police?

A No. All functions were treated in the two main offices of the Security office and the order office.

Q Could the SS, by means of the higher SS and Police Fuehrers, give instructions to the police?

A COLONEL GRIFFITH JONES: I don't like to interrupt, but I can't see how any of the evidence which is being given now can be said to come within the terms of the Tribunal's order of the 16th of May, the three notes as to what is and what is not relevant evidence.

COLONEL NEAVE: Dr. Koessl, will you turn either to the Rules For Hearing of the 16th of May or to the order of the Tribunal of the 13th of March. Which have you got there, the rules or --

DR. KOESSL: I have the order of the 16th of May.

COLONEL NEAVE: Well, paragraph 9-A --

DR. KOESSL: My reference is to Chapter C, paragraph 10.

COLONEL NEAVE: You mean paragraph 9, don't you?

DR. KOESSL: No, 10.

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COLONAL GRIFFITH JONES: No, it is 10.

COLONEL NEAVE: Have you got a copy there?

(Copy handed to Colonel Neave.)

I see. Well now, Dr. Koessl, will you just explain, very briefly, in what way what this witness is saying relates to that paragraph, because I should like to say that unless you can satisfy me -- and I have been listening for some time to this witness with that paragraph in mind myself -- unless you can satisfy me that what he is saying really falls within that paragraph, I must accept the objection of prosecution, and I would advise you to withdraw this witness since he is taking up our time; and if you have a better one on the subject you may present him.

DR. KOESSL: The prosecution has claimed that the SS controlled the police by means of the higher SS and police officers down to the very lowest local officers.

COLONEL NEAVE: Yes, but, Dr. Koessl, how does that fit in with this paragraph?

DR. KOESSL: The activities of the indicted organization is considered relevant in paragraph 10, sub 1.

COLONEL NEAVE: Yes, but not by itself. Read the complete paragraph.

DR. KOESSL: It says relevant whether the group or organization had an activity and which activity this group or organization had.

COLONEL NEAVE: Now it says "whether the organization or group consisted of an aggregation of persons sharing a

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general common purpose to engage in activity defined as criminal in Article 6 of the Charter, and in this connection, what the activities were." Now /What I want you to show me is in what connection the activities which this witness is describing relate to the charge that the SS was an aggregation of persons engaging in activities defined as criminal under Article 6 of the Charter; and unless you can give a satisfactory answer to that I really can not hear this witness any further.

DR. KOESSL: ~~Chief Prosecutor~~ The prosecutor, Chief Justice Jackson, has said that the nucleus of the charge, ~~or of the activities~~, that these organizations, as private organizations, terrorized the State.

COLONEL NEAVE: What has that got to do with Article 6, that is what I want to know?

DR. KOESSL: It refers to the claim made by the prosecution that the SS, by means of SS higher Fuehrers, tried to define the police policy of the German Reich, and to control it, and the prosecution wants to prove that the SS, as a private organization, dominated the State; and, accordingly, the prosecution wants to prove that the SS was the bad influence, the bad spirit that terrorized Germany. That is why these questions to the witness are relevant concerning the very distinct separation of the State functions and Party functions.

COLONEL NEAVE: Excuse me a minute, Dr. Koessl.

I wonder if anybody could supply the Commission with a copy of the Charter? We don't have one here.

Dr. Koessl, the Commissioners have considered this

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point that you have made and we can not see how the evidence of the prosecution that you appear to be trying to rebut relates to any of the crimes or any of the activities defined as criminal under Article 6 of the Charter; and we can only let you rebut what has been stated by the prosecution in respect to this Order that we have here, paragraph 10-A, and we are only interested, for that purpose, in the activities of the organization insofar as they relate to alleged criminal activities under Article 6 of the Charter; therefore, we must stop this witness now.

DR. KOESSL: I only wanted to prove so far as that these State organizations had committed any crimes at all, these crimes can not be charged to the SS because the SS had no power or jurisdiction over these State organizations.

COLONEL NEAVE: But the crimes that you are referring to, are those the crimes under Article 6 of the Charter?

DR. KOESSL: Yes.

COLONEL NEAVE: Well, so far the witness hasn't proved anything about that at all. You haven't mentioned any of the crimes involved.

M. MONNERAY: If Defense Counsel is trying to refute the question of guilt, the first thing to do is to prove that certain crimes put forward by the prosecution have not been committed by agents of the SS but, on the contrary, by agents of the State.

COLONEL NEAVE: Well, what exactly do you mean? Will you repeat that?

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M. MONNERAY: I think Defense Counsel says that his point is that the crimes put forward by the prosecution have been committed by the State and not by the SS, since the SS had no control over the State. But first he should introduce proof that the crimes have been really committed by the State and not by the SS.

COLONEL NEAVE: Well, yes. Dr. Koessl, if you can prove that, we will go on hearing this witness, but the criminal activities referred to must be those described in ARTicle 6 of the Charter; that is what I want to get clear. Now, have you got any more questions to ask this witness; because we shall have a short recess if not.

DR. KOESSL: I have further questions to ask because the prosecution has alleged that by means of the power the higher Police and SS Fuehrers had to command the police that this leaves the possibility of charging any crimes that may have been committed by the State to the SS.

BY DR. KOESSL:

Q I should like to ask you if the higher Police Fuehrer had the power of giving commands to the Ordnungspolizei and to the Security police by making itself Order Police orders and thus make it possible to have influence on the activities of the police?

A The higher SS and police Fuehrers had no power of command or jurisdiction concerning the police, and, likewise, they had no power of command towards the security police and the order police as far as any of these police organizations

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were purely State police. In all these organizations, only the main or the Chiefs of the Security and Order police were important.

COLONEL NEAVE: The Commission will now take a short recess.

(A short recess was taken.)

(Note by the Commissioners: During the recess, defense counsel for the SS informed the Commissioners that they were willing to withdraw the witness BADER for the present, and that if they wished to recall him, they would make written application to the Commission.)

(The Commission adjourned at 1200 hours.)

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The foregoing is a correct and true transcript of the testimony of DR. KURT BADER, taken on 20 May, 1946.

Anne Daniels
Reporter (pp. 1-13)

Burton D. Price
Reporter (pp. 14-25)

CERTIFIED TO:

_____
Commissioner

_____
Commissioner

Witness withdrawn

File

Freuele

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OFFICIAL TRANSCRIPT OF TESTIMONY ON DEFENSE ORGANIZATIONS TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL, MONDAY, 20 MAY, 1946, 1000-1300.

COMMISSIONERS:

Colonel A. M. S. Neave
Captain Joseph Tubridy

SS

DR. KURT BADER, a witness, took the stand and testified as follows:

BY COLONEL NEAVE:

Q Witness, what is your full name?

A Kurt Bader.

Q Will you raise your right hand and repeat these words after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

COLONEL NEAVE: You may sit down.

DR. JOSEF KOESSL: This witness is supposed to prove that the charge made by the prosecution in the meeting of the 19th of December, 1945, as written down on page 1624 of the minutes of that meeting, is not true. The sentence reads that the Court would have to know, in considering the capacity in which the police was doing anything, whether it was really the SS which was acting.

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COLONEL NEAVE: Interpreter, please ask Dr. Koessl to pause regularly after every sentence.

INTERPRETER: Yes, sir.

DR. KOESSL: Counsel would like to question the witness.

COLONEL NEAVE: Yes.

DIRECT EXAMINATION

BY DR. KOESSL:

Q The witness is supposed to give evidence particularly as to the activities of the police, the being of the police, with particular regard to the Ordnungspolizei, the Order Police.

What positions did you hold within the police before and after 1933 that gave you an opportunity to get particular knowledge or insight of the Order Police?

A I am a highschool graduate. From 1915 to 1920 I was an active lieutenant--first lieutenant--in the Army. From 1920 to 1922 I was first lieutenant of police. Because of illness, I retired. From 1922 until 1925 I studied law.

COLONEL NEAVE: I think we can go straight on through these personal details to the position that he held in the Ordnungspolizei.

DR. KOESSL: They will follow immediately.

BYDR. KOESSL:

Q Yes?

A After I had taken my doctor's examination, I was employed by the police at Mautheim.

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In 1929 I entered the Ministry of the Interior at Baden as a legal advisor.

From March of 1933 until July of 1937 I was the head of the Police Department of the Ministry of the Interior of Baden.

From 1937 until 1943 I was Amtsgruppenleiter of the Reich Ministry of the Interior, the Ordnungspolizei. My special field was police law of the Order Police, and the organization of the Order Police.

From 1943 until the armistice I was inspector of the Order Police for the Gaus Wien, Lower Danube and Upper Danube.

Q The first question is, do you consider the drawing, which was submitted by the prosecution, of the plan of the organizations that were subordinate to the Reichsfuehrer of the SS correct?

A No.

Q I should like to point out that the prosecution submitted a drawing to the Court. This outline includes the main offices of the SS, and it also includes sub-departments. This draft has been made by a man called Berger, former Obergruppenfuehrer of the SS.

COLONEL GRIFFITH JONES: I don't wish to interrupt you, but if these proceedings are to be kept within any kind

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of reasonable time whatsoever, I do respectfully ask that the defense counsel and the witnesses be kept to something which is relevant.

So far we have been here for about a half hour, and the witness has been asked three questions. The remainder of that time we have been occupied by defense counsel in making speeches.

I do, with great respect, submit that it is perfectly simple toask questions and let the witness answer, and leave explanations until either the Commissioner or counsel for the prosecution ask for some explanation.

COLONEL NEAVE: Dr. Koessl, would you keep your questions very much shorter, pause for the interpreter after every sentence, and ask the witness questions that he can answer without giving a long explanation.

I was not going to draw attention to this unless I had to, but I have already pointed out to defense counsel, before this session, that both the questions and answers should be kept as short and to the point as possible.

Will you go on?

DR. KOESSL: Yes.

BY DR. KOESSL:

Q Do you consider the drawing, or the outline, that has been submitted to you of the offices subordinate to the Reichsfuehrer SS as correct?

A No, it is not correct.

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Q Why is it not correct?

A The Main Security Office and the Order Police Office were subordinate to the head of the German Police. They were pure state organizations. This sketch has, for its heading, "Reichsfuehrer SS". He was not head of the German Police. The Party and the State Offices of Himmler were separate. There was only a personnel union.

COLONEL NEAVE: What was that word? What sort of a union?

DR. KOESSL: Personnel Union. That means that one man holds two different offices at the same time.

COLONEL NEAVE: What is the relevance of all this, Dr. Koessl? What are you trying to prove by it?

DR. KOESSL: I want to prove that the Order Police was not a part of the SS.

COLONEL GRIFFITH JONES: The Order Police are not included in the Indictment. Anything which refers to them is wholly irrelevant for the purpose of this investigation.

COLONEL NEAVE: Are they not included in the Indictment as an organization integrated in or adhering to the SS?

COLONEL GRIFFITH JONES: In so far as members of the Ordnungspolizei happen to have been members of the SS, then, of course, they are included in the organization of the SS. The Ordnungspolizei, as such, as an organization, is not included.

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DR. KOESSL: Defense counsel Babel has repeatedly ask that the prosecution make a statement or say definitely whether the Ordnungspolizei as such has also been indicted.

COLONEL NEAVE: Well, they have made one and you have heard the answer now.

If I understood Colonel Griffith Jones correctly, he said in so far as they were members of the SS.

COLONEL GRIFFITH JONES: Yes.

COLONEL NEAVE: So that if this witness is going to prove anything regarding the membership of the Ordnungspolizei within the SS, then we would be glad to continue to hear him, but not ~~further~~ in so far as the Ordnungspolizei as a whole is concerned, in that it is not, apparently, indicted.

Therefore, will you confine your witness, if you can, if he has got any material, to the Ordnungspolizei in so far as its members were members of the SS.

DR. KOESSL: I would like to point out a sentence on page 15 of the Indictment against the SS. This sentence reads: "The office of the Order Police in the Reich Ministry of the Interior was a similar one."

COLONEL NEAVE: Where is this, Dr. Koessl?

DR. KOESSL: At the bottom of page 15 of the German version of the Indictment.

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COLONEL NEAVE: Can you say which the English version page would be?

DR. KOESSL: No, I can't, I am sorry to say.

COLONEL NEAVE: Dr. Kempner, perhaps you can let us know.

DR. KEMPNER: It is on page 12.

COLONEL GRIFFITH JONES: It has repeatedly been made clear, or it has been attempted to be made clear, that this is from the trial brief. The trialbrief is not the case against the defendants. The case against the defendants is contained in that evidence which has been put before the Tribunal, and is included in the record.

DR. KOESSL: In supplement B of the Indictment, the following sentence is contained.

COLONEL NEAVE: I believe you are talking about Appendix B of the Indictment now?

DR. KOESSL: Appendix B of the Indictment, page 3 of the German version.

COLONEL NEAVE: Well, that is presumably page 36 of the Indictment.

I don't believe you need read all this, Dr. Koessl, we can read it in our English version. Just say what you have to say about this particular paragraph.

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DR. KOESSL: This sentence states that the protecting staff of the German Party, generally known as the SS, including the Security Police, is not confined to the SS Regimental Police, or the SS Polizei Regiments.

COLONEL GRIFFITH JONES: The SS and the Polizei Regiments, as I understand it, are not the Order Police at all; they are special regiments of SS Police who were sent out on special tasks. That is as I understand the position. However, they do not refer to the Order Police as such.

COLONEL NEAVE: Well, the prosecution adhere to what was originally said, that the Ordnungspolizei is not indicted except in so far--am I right in saying this--as some of its individual members may have been members of the SS?

DR. KEMPNER: That is right.

COLONEL NEAVE: Now, Dr. Koessl, the prosecution have now made that statement with respect to the Indictment, and I must, therefore, ask you to confine your questions to that point, with reference to those members of the Ordnungspolizei who were also members of the SS.

Now, unless this witness--which he doesn't appear to be able to do at the moment--can give evidence with respect to those people that I have referred to, the Ordnungspolizei members who were also members of the SS, then I don't think that we need hear him further.

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DR. KOESSL: I would like to ask the witness whether the SS regiments were regiments of the Police or of the SS.

COLONEL NEAVE: But we are talking about the Ordnungspolizei, and we understand from the prosecution that they are not indicting the Ordnungspolizei in respect of the SS Police Regiments. Therefore, we are not really interested in that point.

COLONEL GRIFFITH JONES: To make ourselves quite clear, the SS Polizei Regiments are part of the SS.

COLONEL NEAVE: I understand the SS Police Regiments are actually part of the SS.

DR. KOESSL: No; no. The witness is supposed to prove that.

COLONEL NEAVE: You may ask the witness to explain briefly.

BY DR. KOESSL:

Q Witness, do you know for sure whether the SS Police Regiments were regiments of the Ordnungspolizei or of the Police?

A I cannot say for sure.

COLONEL NEAVE: Well, if he can't say for sure we are not really interested in hearing him, because we want a definite answer to this question. The prosecution

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have made a statement with respect to the position of the SS Police Regiments and the Ordnungspolizei, and I can't see the point of hearing a witness who can't say for sure.

M. HENRI MONNERAY: May I just make it quite clear? Is it possible to ask whether the regiments of the Ordnungspolizei are not, at the same time, regiments of the SS?

COLONEL NEAVE: I understand Colonel Griffith Jones has stated that. Do you want us to ask the witness that question?

M. MONNERAY: It is necessary to know, and the witness can probably answer the question as to whether the name Ordnungspolizei Regiments doesn't cover, at the same time, the SS Polizei Regiments.

DR. KOESSL: I understand that the prosecution should ask these questions on cross examination.

COLONEL NEAVE: It is a perfectly straightforward question on the examination of the witness, because we want to know whether the witness is being asked anything relevant. Surely this is a matter of fact, and if this witness does not know the answer precisely, well then I don't think there is any point in hearing him at all. He ought to be in a position to know. You called him as a person who was experienced.

DR. KOESSL: The witness is supposed to give an answer if he can give definite information concerning this question.

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THE WITNESS: I cannot give a binding answer. Up until 1943 I was solely employed by the Administration Department, and the regiments were subordinate to the commander. I do not want to give any indefinite information.

DR.KOESSL: The Court and the prosecution probably want to know what Kommandoamt means.

COLONEL NEAVE: I don't think so; I think they know that. I don't think the prosecution or ourselves wish to know what Kommandoamt means. All we want to know is, what can this witness say with respect to the Ordnungspolizei that relates to the SS? And I must ask you to ask him questions on that subject, and that subject alone. He doesn't seem to be able to answer very much about the police regiments, so let him say what he knows about the Ordnungspolizei, and that is all.

DR. KOESSL: I have been charged to ask the witness questions concerning the relationship of the Ordnungspolizei to the interior administration division.

COLONEL NEAVE: No. You mean the interior administration of what?

DR. KOESSL: The inner State Administrative Division, or Administration. That is, the Reich Interior Administration.

I can only ask the question if the prosecution state clearly whether the Ordnungspolizei is indicted or not.

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COLONEL NEAVE: They have answered it. I think I must have repeated their answer three times already. They state that it is only indicted in respect of its members who were members of the SS, and what the interior administration has to do with this, I don't follow at all.

Can this witness give us any information at all regarding members of the Ordnungzpolizei who were members of the SS? If he can't do so, he must go.

DR. KOESSL: The prosecution has maintained that when the police has done anything, has taken any action, then it was really the SS acting.

COLONEL NEAVE: Dr. Koessl, will you ask him the question I asked you to ask him with respect to the Ordnungspolizei and the SS? Will you ask him that question?

DR. KOESSL: Counsel can only do without asking the witness questions if the prosecution state firmly and clearly that the Ordnungspolizei is excepted from the Indictment.

COLONEL NEAVE: But they don't say anything of the sort. I really can't repeat what they have already said myself, but, for the fifth time, they have made their position perfectly clear. They did not say it was excepted. They referred to the membership of that organization who were also members of the SS. Now, if any members of

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the Ordnungspolizei were members of the SS, can't you ask this witness about that? If not, he is not required.

DR. KOESSL: Counsel says that the prosecution has made claims or assertions that when the prosecution indicted the SS, it also indicted parts of or even the entire Ordnungspolizei.

COLONEL NEAVE: Have you any comments to make on that? Do you have anything to add to what you have originally said?

COLONEL GRIFFITH JONES: I have nothing to add to what I have already said. And if the defense counsel can show me, either in the Indictment or in the evidence that has been put before the Tribunal, where we have alleged that the Ordnungspolizei as such, as a unit, is a criminal organization, why then I will be pleased to reconsider what I said.

French

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DR. KOESSL: On Page 1592 of the Minutes of the meeting on December 19, 1945, the main security office -- the main office of the Ordnungspolizei has been signified as the SS main office.

COLONEL NEAVE: I don't think I quite understood that.

DR. KOESSL: In the German version of the Minutes of the meeting on December 19, 1945, Page 1592, the main office of the Ordnungspolizei has been identified with the SS main office. In the minutes of the SGT, on Page 1619, the SS and the Ordnungspolizei were under one unified leadership.

I should now like to turn my attention to the development which made the SS and the police one unit. This is quoting from the Minutes, Page 1623 --

COLONEL NEAVE: I thought you were trying to prove that the Ordnungspolizei was not part of the SS. What are you trying to produce this evidence for? Honestly, Dr. Koessl, I don't think we need to continue this discussion at all. The prosecution has made themselves perfectly clear in respect to the indictment of the SS and I am going to ask this witness to go unless you are prepared to ask him a relevant question with respect to the SS membership of the Ordnungspolizei. You see, you don't need to continue this discussion at all.

DR. KOESSL: I have another witness concerning membership of the SS and the Ordnungspolizei.

COLONEL NEAVE: All right, let's hear him. But I don't think that Dr.Kurt Bader has anything to say on this subject. I don't want to have to ask the prosecution to repeat

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what they have said. They say that it is not rellevant and I don't think I can hear this witness any further. If you have a witness on the subject of the SS membership of the Ordnungspolizei you can call him rightaway, but we don't want Dr. Bader any further because I don't think he has any --

DR. KOESSL: The indictment of the Ordnungspolizei is in question and I would like permission to recall the witness at a later date.

COLONEL NEAVE: The question of the indictment of the Ordnungspolizei has been settled by the statement of the prosecution representatives here this morning and therefore we will not grant permission to recall the witness.

DR. KOESSL: If the Court considers the declaration of the prosecution as binding, I need ask the witness no further questions.

COLONEL NEAVE: Well, the Commission will naturally accept the statement of the prosecution. They are indicting the organization. # Counsel, we are going to withdraw this witness now because we don't think that he can prove anything in connection with what the Ordnungspolizei appears to be indicted for. You have nothing to add to your statement?

COLONEL GRIFFITH JONES: No, sir.

COLONEL NEAVE: Since Defense Counsel asked whether we considered that statement as binding and we have stated we do, the witness can now withdraw.

DR. KOESSL: I can ask the witness some other questions not in the question group that has been discussed this morning.

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COLONEL NEAVE: Well, is it anything relevant? Is it anything to do with the SS?

DR. KOESSL: Yes, it treats the questions of the documents that the prosecution has submitted.

COLONEL NEAVE: Well, in what respect?

DR. KOESSL: The first question is, is the treatise that Dr. Werner Best has written concerning the German police an official statement or official explanation?

COLONEL NEAVE: Excuse me, Dr. Koessl. Is this a document introduced by the prosecution?

DR. KOESSL: It is the chief document of the prosecution so far as the police sector is concerned.

COLONEL NEAVE: But does it relate to the Ordnungspolizei?

DR. KOESSL: It relates to the SS and to the Ordnungspolizei.

COLONEL NEAVE: All right, go ahead.

BY DR. KOESSL:

Q Is this treatise that Dr. Werner Best has written concerning the German police official? Does it give an official view?

A No; the contrary.

Q The prosecution says that Dr. Werner Best was a Ministerialdirektor in the Reich Ministry of the Interior, so that this treatise has an official character --

M. MONNERAY: I think we do not worry about the official character of this book. If Defense Counsel has any objection

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to make as to some specific point I think he could ask the witness.

COLONEL NEAVE: I think so, too. I don't think there is much point in asking questions relating to this book unless you are going to prove something concerning the relation of the SS and the Ordnungspolizei that arises out of this book.

DR. KOESSL: The prosecution wants to shed light on the activities of the SS as a police organization. If the prosecution withdraws the claims or of the claims concerning the Ordnungspolizei are not used, then the book is still important so far as light is to be shed on the activities of the SS.

COLONEL NEAVE: All right, go on.

Q Did the SS have any police functions at all?

A No.

Q Can the SS be considered a police organization as claimed by the prosecution?

A No.

Q Did the security of the public order of the Reich relate to the activities of the SS?

A In principle, no. In times of public emergencies and when there were very large mass meetings the SS could be called upon to form cordons and so forth.

M. MONNERAY: May I have that question and answer read back?

COLONEL NEAVE: Read back the question and answer.

(Reporter read the last question and answer.)

Q On Page 13 of the Minutes of the meeting of December

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19, 1945, the prosecution says the following: "The task of the SS were increased insofar as to secure or make safe the order of the Reich", and so forth. I should like to ask the witness if this task was a State task of the SS as a formation.

COLONEL NEAVE: Would you repeat the question?

Q Was the securing of public safety a task of the SS as a State task or a task of the SS as an organization of the National Socialist Party?

A The securing of public safety in the Reich itself is specifically a task of the police or of the Order Police.

Q Was this scope of activity transferred to the SS or was it extended to the SS?

A I never heard that this activity was transferred to the SS, but during my imprisonment I was acquainted with the so-called Fuehrer decree, the Freibrief charter, to the SS, but this decree speaks only of future tasks of the SS.

Q Then you mean to say that the activity had not been transferred as yet to the SS?

A I know nothing of it.

Q The prosecution has repeatedly referred to speeches and writings by Himmler. What can you say concerning Himmler's speeches or what he has written concerning police activity and SS activity?

A Many things have not yet settled concerning police and SS. In speeches and publications many things were treated which were future plans or which were dreams or remained dreams. In

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my opinion, you can only go by what was actually made law by decree or by what was the existing condition.

COLONEL NEAVE: Dr. Koessl, what I understood you were going to ask this witness was some information concerning the police activities of the SS as a whole. Now he does not appear to know very much about this and I would suggest that if you have a better witness on this subject, which I understand you have, we withdraw this one. You remember that we have very little time and we have not got any precise information from this man.

DR. KOESSL: This witness has shown that the police activity was and remained a State activity and did not become an SS activity.

COLONEL NEAVE: What else can you prove with regard to the SS? You have proved that point now; he has told us about that, not in very great detail, but he has told us that. Is there anything else he can say with regard to SS police?

Q What does the decree making the SS Fuehrer Chief of the German Police mean?

A In 1936 Himmler became Chief of the German Police in the Reich's Ministry of the Interior. As Chief of the German Police he was the constant deputy of the Reich's Minister of the Interior. The supplement within the Reich's Ministry of the Interior proves that both his offices remained and were offices within the Ministry of the Interior; that is of the main security office and the main order police office, the Reich's main order police office and Reich's main security office.

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Q In the introduction of the Trial Brief, at the top of Page 8, the prosecution says: "The SS controlled and supervised the police power." Is that correct? With special consideration to the fact that the Reichsfuehrer SS also was Chief of the German Police?

A The SS did not control the police but the police Chief was in personal union with the SS Reichsfuehrer.

Q Did the organization of the SS have any control over the police?

A No. All functions were treated in the two main offices of the Security office and the order office.

Q Could the SS, by means of the higher SS and Police Fuehrers, give instructions to the police?

COLONEL GRIFFITH JONES: I don't like to interrupt, but I can't see how any of the evidence which is being given now can be said to come within the terms of the Tribunal's order of the 16th of May, the three notes as to what is and what is not relevant evidence.

COLONEL NEAVE: Dr. Koessl, will you turn either to the Rules For Hearing of the 16th of May or to the order of the Tribunal of the 13th of March. Which have you got there, the rules or --

DR. KOESSL: I have the order of the 16th of May.

COLONEL NEAVE: Well, paragraph 9-A --

DR. KOESSL: My reference is to Chapter C, paragraph 10.

COLONEL NEAVE: You mean paragraph 9, don't you?

DR. KOESSL: No, 10.

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COLONAL GRIFFITH JONES: No, it is 10.

COLONEL NEAVE: Have you got a copy there?

(Copy handed to Colonel Neave.)

I see. Well now, Dr. Koessl, will you just explain, very briefly, in what way what this witness is saying relates to that paragraph, because I should like to say that unless you can satisfy me -- and I have been listening for some time to this witness with that paragraph in mind myself -- unless you can satisfy me that what he is saying really falls within that paragraph, I must accept the objection of prosecution, and I would advise you to withdraw this witness since he is taking up our time; and if you have a better one on the subject you may present him.

DR. KOESSL: The prosecution has claimed that the SS controlled the police by means of the higher SS and police officers down to the very lowest local officers.

COLONEL NEAVE: Yes, but, Dr. Koessl, how does that fit in with this paragraph?

DR. KOESSL: The activities of the indicted organization is considered relevant in paragraph 10, sub 1.

COLONEL NEAVE: Yes, but not by itself. Read the complete paragraph.

DR. KOESSL: It says relevant whether the group or organization had an activity and which activity this group or organization had.

COLONEL NEAVE: Now it says "whether the organization or group consisted of an aggregation of persons sharing a

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general common purpose to engage in activity defined as criminal in Article 6 of the Charter, and in this connection, what the activities were." Now /What I want you to show me is in what connection the activities which this witness is describing relate to the charge that the SS was an aggregation of persons engaging in activities defined as criminal under Article 6 of the Charter; and unless you can give a satisfactory answer to that I really can not hear this witness any further.

DR. KOESSL: ~~Chief Prosecutor~~ The prosecutor, Chief Justice Jackson, has said that the nucleus of the charge, ~~or of the activities,~~ that these organizations, as private organizations, terrorized the State.

COLONEL NEAVE: What has that got to do with Article 6, that is what I want to know?

DR. KOESSL: It refers to the claim made by the prosecution that the SS, by means of SS higher Fuehrers, tried to define the police policy of the German Reich, and to control it, and the prosecution wants to prove that the SS, as a private organization, dominated the State; and, accordingly, the prosecution wants to prove that the SS was the bad influence, the bad spirit that terrorized Germany. That is why these questions to the witness are relevant concerning the very distinct separation of the State functions and Party functions.

COLONEL NEAVE: Excuse me a minute, Dr. Koessl.

I wonder if anybody could supply the Commission with a copy of the Charter? We don't have one here.

Dr. Koessl, the Commissioners have considered this

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point that you have made and we can not see how the evidence of the prosecution that you appear to be trying to rebut relates to any of the crimes or any of the activities defined as criminal under Article 6 of the Charter; and we can only let you rebut what has been stated by the prosecution in respect to this Order that we have here, paragraph 10-A, and we are only interested, for that purpose, in the activities of the organization insofar as they relate to alleged criminal activities under Article 6 of the Charter; therefore, we must stop this witness now.

DR. KOESSL: I only wnated to prove that/these State so far as organizations had committed any crimes at all, these crimes can not be charged to the SS because the SS had no power or jurisdiction over these State organizations.

COLONEL NEAVE: But the crimes that you are referring to, are those the crimes under Article 6 of the Charter?

DR. KOESSL: Yes.

COLONEL NEAVE: Well, so far the witness hasn't proved anything about that at all. You haven't mentioned any of the crimes involved.

M. MONNERAY: If Defense Counsel is trying to refute the question of guilt, the first thing to do is to prove that certain crimes put forward by the prosecution have not been committed by agents of the SS but, on the contrary, by agents of the State.

COLONEL NEAVE: Well, what exactly do you mean? Will you repeat that?

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M. MONNERAY: I think Defense Counsel says that his point is that the crimes put forward by the prosecution have been committed by the State and not by the SS, since the SS had no control over the State. But first he should introduce proof that the crimes have been really committed by the State and not by the SS.

COLONEL NEAVE: Well, yes. Dr. Koessl, if you can prove that, we will go on hearing this witness, but the criminal activities referred to must be those described in Article 6 of the Charter; that is what I want to get clear. Now, have you got any more questions to ask this witness, because we shall have a short recess if not.

DR. KOESSL: I have further questions to ask because the prosecution has alleged that by means of the power the higher Police and SS Fuehrers had to command the police that this leaves the possibility of charging any crimes that may have been committed by the State to the SS.

BY DR. KOESSL:

Q I should like to ask you if the higher Police Fuehrer had the power of giving commands to the Ordnungspolizei and to the Security police by making itself Police orders and thus make it possible to have influence on the activities of the police?

A The higher SS and police Fuehrers had no power of command or jurisdiction concerning the police, and, likewise, they had no power of command towards the security police and the order police as far as any of these police organizations

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were purely State police. In all these organizations, only the main or the Chiefs of the Security and Order police were important.

COLONEL NEAVE: The Commission will now take a short recess.

(A short recess was taken.)

(Note by the Commissioners: During the recess, defense counsel for the SS informed the Commissioners that they were willing to withdraw the witness BADER for the present, and that if they wished to recall him, they would make written application to the Commission.)

(The Commission adjourned at 1200 hours.)

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The foregoing is a correct and true transcript of the testimony of DR. KURT BADER, taken on 20 May, 1946.

_____
Reporter (pp. 1-13)

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Reporter (pp. 14-25)

CERTIFIED TO:

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Commissioner

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?Commissioner